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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,
Plaintiff,

vs.

CANNONS ENGINEERING CORPORATION
et al.

Defendants.

COMMONWEALTH OF MASSACHUSETTS,
Plaintiff,

vs.

CANNONS ENGINEERING CORPORATION
et al.

Defendants.

STATE OF NEW HAMPSHIRE,
Plaintiff,

vs.

CANNONS ENGINEERING CORPORATION
et al.

Defendants.

Civil Action No: 88-1786-WF
88-1787-WF
88-1788-WF

PARTIAL CONSENT DECREE

Cannons Engineering Case Consent Decree

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PARTIAL CONSENT DECREE

WHEREAS, the United States of America ("United States"), the Commonwealth of Massachusetts (the "Commonwealth") and the State of New Hampshire ("New Hampshire") have filed a complaint against the defendants in this action with respect to alleged releases and threatened releases of hazardous substances at the Cannons Engineering Superfund sites at Bridgewater and Plymouth, Massachusetts, at the Gilson Road Superfund site in Nashua, New Hampshire and at the Tinkham's Garage Superfund site in Londonderry, New Hampshire;

WHEREAS, the four sites are allegedly linked by virtue of the common factual nexus that wastes initially were delivered to the Bridgewater site where some of the wastes were allegedly commingled and allegedly shipped to the Plymouth, Nashua and Londonderry sites;

WHEREAS, the alleged releases or threatened releases have required and may require response actions by the governments and by persons other than the governments and have caused and will cause property damage;

WHEREAS, the defendants have previously undertaken removal actions with respect to the Bridgewater and Plymouth sites and a predesign study with respect to the Londonderry site;

WHEREAS, the parties agree that it is in the public interest and the interests of the parties for this case to be resolved at this time, notwithstanding the risks associated with the agreements contained herein, without protracted litigation, before the taking of any testimony, and without the admission of any issue of fact or law; and

WHEREAS, the parties have agreed to the entry of this Consent Decree;

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED:

1. JURISDICTION AND VENUE. For the purpose of entry and enforcement of this Consent Decree only, this Court has jurisdiction over the subject matter of these actions pursuant to 28 U.S.C. §§ 1331, 1345, 42 U.S.C. § 6973, and 42 U.S.C. §§ 9606, 9607, and 9613(b) and pendent jurisdiction over the claims arising under the laws of Massachusetts and New Hampshire. This Court also has personal jurisdiction over the defendant Settling Parties who are signatories to this Consent Decree, and who, solely for purposes of this Consent Decree and the underlying complaints, hereby waive all objections and defenses that they may have to the jurisdiction of the Court or to venue in this District. Venue is proper in this district. The Settling Parties, by their signatures on this Consent Decree, acknowledge

service of process of the complaints in this action and expressly waive all objections to service of process. With respect to matters other than jurisdiction and venue, nothing in this paragraph shall be construed to limit or otherwise waive rights reserved in other paragraphs of this Consent Decree.

2. DEFINITIONS. As used in this Consent Decree, the following terms shall have the following meanings:

A. EPA shall mean the United States Environmental Protection Agency.

B. Commonwealth shall mean the Commonwealth of Massachusetts and its Departments and Agencies.

C. New Hampshire shall mean the State of New Hampshire and its Departments and Agencies.

D. States shall mean the Commonwealth of Massachusetts and the State of New Hampshire.

E. Appropriate State shall mean that state in which a referenced site is located.

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- F. Settling Parties shall mean the Parties listed in Appendix A who have executed the Signature Page of this Consent Decree, including the Londonderry Owners, the Tinkhams and the Londonderry Apartment Complex Owners. Settling Parties shall include the Plymouth Owners, but only with respect to the terms set forth in the following paragraphs herein: paragraphs 1, 2, 4, 10, 22, 23, 24, 26, 27, 28, 31, 32, 36, 38 and 40.
- G. Londonderry Owners shall mean those Settling Parties listed in Appendix A, Section 2 under the heading "Londonderry Owners."
- H. Tinkhams shall mean those Settling Parties listed in Appendix A, Section 2(a) under the heading "Tinkhams."
- I. Londonderry Apartment Complex Owners shall mean those Settling Parties listed in Appendix A, Section 2(b) under the heading "Londonderry Apartment Complex Owners."
- J. Plymouth Owners shall mean those Settling Parties listed in Appendix A, Section 3 under the heading "Plymouth Owners."

- K. Appropriate Site Owners shall mean, with respect to the Plymouth site, the Plymouth Owners and, with respect to the Londonderry site, the Londonderry Owners.
- L. Plaintiffs shall mean the United States, the Commonwealth, and New Hampshire.
- M. Parties shall mean Plaintiffs, Settling Parties and the Plymouth Owners.
- N. CERCLA shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, et seq.
- O. SWDA or RCRA shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, et seq.
- P. NCP shall mean the National Contingency Plan promulgated pursuant to CERCLA § 105, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, including any amendments thereto.
- Q. Hazardous Substances shall mean any substance meeting the definition of: (1) "hazardous substance" under Section 101(14), of CERCLA, 42 U.S.C. § 9601(14); (2)

"pollutant" or "contaminant" under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) "hazardous waste" under Section 1004(5) of SWDA, 42 U.S.C. § 6903(5); "solid waste" under Section 1004(5) of SWDA, 42 U.S.C. § 6903(5); (4) "hazardous material" under M.G.L.A. c. 21E, § 2e; (5) "hazardous waste" under N.H.R.S.A. 147-A:2,VII and N.H.R.S.A. 147-B:2,VII; or (6) "hazardous material" under N.H.R.S.A. 147-B:2,VIII.

R. Massachusetts Sites shall mean the Cannons Engineering Corporation Superfund sites at Bridgewater and Plymouth, Massachusetts.

S. New Hampshire Sites shall mean the Gilson Road Superfund site at Nashua, New Hampshire and the Tinkham's Garage Superfund site at Londonderry, New Hampshire.

T. Cannons Sites shall mean, collectively, the Massachusetts sites and the New Hampshire sites.

U. Record of Decision ("ROD") shall mean the EPA Record of Decision relating to any of the Cannons Sites and all attachments thereto.

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- V. Site Remedial Design/Remedial Action Plan ("RD/RA Plan") shall mean the plan developed by EPA, including all of its attachments, which describes studies, plans, remedial actions, and operation and maintenance activities, including post-remedy monitoring and maintenance, to be undertaken at and around the site, and includes all studies, plans, standards, specifications, drawings, and other documents approved or developed by Plaintiffs pursuant to this Consent Decree.
- W. Response Action shall mean all work and other removal or remedial actions required at a site by this Consent Decree, including the RD/RA Plan or Removal Plan for the site.
- X. United States shall mean the United States on behalf of EPA and, with respect to paragraph 26 herein, on behalf of the United States Department of the Interior ("DOI") and the National Oceanic and Atmospheric Administration ("NOAA"). For purposes of this Consent Decree, the "United States" shall not include the Department of the Navy.

3. PARTIES BOUND. This Consent Decree shall apply to and be binding upon the Parties to this action and upon their employees, officers, successors, and assigns. The Settling Parties shall provide a copy of this Consent Decree to each contractor and subcontractor retained to perform work contemplated herein and to each person representing the Settling Parties with respect to a site or Response Action, and shall condition all contracts and subcontracts entered hereunder upon compliance with the terms and conditions of this Consent Decree. Any change in the ownership or corporate status of a Settling Party shall in no way alter that Settling Party's responsibilities under this Consent Decree. Each Settling Party shall provide a copy of this Consent Decree to any subsequent owners or successors of the Parties.

4. EFFECT OF SETTLEMENT. This Consent Decree was negotiated at arms' length and executed by the Parties in good faith to avoid further expensive and protracted litigation and is a settlement of claims which were vigorously contested, denied and disputed as to validity, liability and amount. The Plaintiffs and the Settling Parties agree that neither this Consent Decree, nor any part hereof, nor the entry into, nor any performance under this Consent Decree by any of the Settling Parties, shall constitute or be construed as a finding or admission or acknowledgement of the factual or legal allegations contained in this Consent Decree or in the complaints, or of any liability, fault or wrongdoing,

or evidence of such, or an admission of violation of any law, rule, regulation, or policy, by any Settling Party or by its officers, directors, employees, agents, successors or assigns, nor shall this Consent Decree nor any performance hereunder by any of the Settling Parties create any rights on behalf of any other person not a party hereto. Each of the Settling Parties expressly reserves any and all rights (including any right to contribution), defenses, claims, demands and causes of action which each of them may have with respect to any matter, action, event, claim or proceeding relating in any way to the Cannons Sites against any person other than the Plaintiffs, except as expressly provided in this Consent Decree. Settling Parties, individually and collectively, do not admit, accept, concede, or acknowledge the determinations, allegations, findings of fact, if any, and conclusions in this Consent Decree or in the complaints filed in this action and specifically reserve the right to contest any such determinations, allegations, findings, except in any proceeding to enforce Settling Parties' obligations pursuant to this Consent Decree.

5. INCORPORATION OF DOCUMENTS. All appendices and attachments to this Consent Decree and any and all reports, plans, specifications, schedules, and other documents required by the terms of this Consent Decree and approved or developed by EPA and/or the States in accordance with the provisions of this

Consent Decree (including its appendices and attachments) are incorporated into this Consent Decree and enforceable under it.

6. PAYMENTS BY SETTLING PARTIES AT THE NASHUA AND PLYMOUTH SITES. The Settling Parties shall pay the Plaintiffs an amount (the "Cash Payment") equal to \$17,920,000 with respect to the Nashua site on or before the thirtieth day after entry of this Consent Decree. This Cash Payment is comprised of 4 components:

A. \$15,263,000 of the Cash Payment represents payment with respect to all past costs incurred prior to January 1, 1988 and anticipated costs to be incurred after January 1, 1988 up to the \$12.129 million expected future costs at the Nashua site;

B. \$500,000 of the Cash Payment represents payment of a premium with respect to any liability that may arise at the Nashua site prior to the expenditure of \$12.129 million in response costs at the site after January 1, 1988 as the result of presently unknown conditions or information concerning the Nashua site that become known prior to certification pursuant to Section 122(f)(3) of CERCLA or as the result of presently unknown conditions or information concerning the site that become known after certification pursuant to Section 122(f)(3) of CERCLA;

C. \$1,957,000 of the Cash Payment represents payment of a premium with respect to any response cost expenditures arising from presently known conditions which are incurred after the expenditure of the first \$12.129 million in response costs expended at the Nashua site after January 1, 1988, up to a maximum of \$19.0 million in total response costs incurred after said date; and

D. \$200,000 of the Cash Payment represents payment of a premium with respect to any liability that may arise at the Nashua site after the expenditure of the \$12.129 million expected response costs but prior to the expenditure of \$19.0 million in response costs at the site after January 1, 1988 as the result of presently unknown conditions or information concerning the site that become known prior to certification pursuant to Section 122(f)(3) of CERCLA or as the result of presently unknown conditions or information concerning the site that become known after certification pursuant to Section 122(f)(3) of CERCLA.

E. The payments required by this paragraph shall be made in accordance with the procedures set forth in paragraph 19. None of the amounts constituting the Cash Payment shall be construed as fines, penalties, or sanctions. Upon receipt by the Plaintiffs of the Cash Payment, EPA and New Hampshire will certify the completion of Settling Parties' responsibilities

under this Consent Decree with respect to the Nashua site subject only to the limitations set forth in paragraph 26. This certification is not the certification of the remedy referenced in Section 122(f)(3) of CERCLA.

F. Payment for Past Costs at Plymouth Site. The Plymouth Owners shall pay EPA \$935,000 for past costs incurred at the Plymouth site. This payment shall be made in three installments over a period of two years as follows: \$467,000 within ninety days of the entry of this Consent Decree; \$155,834, together with interest thereon, one year from the date of the initial payment; and the balance not later than two years from the date of the initial payment. Interest at the MK rate shall be paid on the outstanding balances and shall accrue from the date of the initial payment. The payments required by this paragraph shall be made in accordance with the procedures set forth in paragraph 19. Failure to make timely payments under this subparagraph shall subject the Plymouth Owners to the stipulated penalties set forth in paragraph 24 herein in addition to such other penalties and sanctions as may be authorized by law, including the imposition of liens pursuant to CERCLA and state law. Moreover, if any payment required to be made under this subparagraph is more than forty-five (45) days late, the United States may, subject to the dispute resolution procedures of paragraph 23, thereupon make demand upon the Plymouth Owners for immediate

payment of all sums that would otherwise be due subsequent to the late payment in question.

G. Letter of Credit for Potential Future Costs at Plymouth. Within ninety (90) days of the entry of this Consent Decree, the Plymouth Owners shall furnish an irrevocable letter of credit valid for up to \$120,000 for payment of remedial designs, remedial actions and removal actions performed after the effective date of this Consent Decree at or in connection with the Plymouth site, but not for payment of oversight costs, site assessments or other studies not performed as part of remedial designs or remedial actions at the site. In the event that EPA incurs response costs for said response actions, EPA shall notify the Plymouth Owners of its intention to draw upon the letter of credit. Thirty (30) days after issuance of such notice, subject only to dispute resolution procedures invoked during such period, EPA may draw upon this letter of credit prior to using any sources of funds that may otherwise be available to it. In the event that EPA determines that no further expenditures for said response actions at the site are necessary, or, if EPA fails to issue a decision on said response actions within two years from the effective date of this Consent Decree, the Plymouth Owners' obligation to furnish a letter of credit shall be terminated. If EPA determines that an amount less than \$120,000 is necessary for

said response actions, the Plymouth Owners obligation to furnish a letter of credit for the balance shall be terminated.

H. Notification of Response Actions and Cost Accounting.

In the event EPA determines that further response actions at the Plymouth site will be necessary, EPA will immediately notify the Plymouth Owners of such determination and provide documentation supporting such determination. EPA shall also provide the Plymouth Owners with a comprehensive accounting of all costs, including projected costs, associated with any further response actions described in subparagraph 6.E above.

7. PERFORMANCE OF RESPONSE ACTIONS BY SETTLING PARTIES.

:

A. Performance of Response Actions at Londonderry, Bridgewater and Plymouth Sites. The Settling Parties shall finance and perform the Response Actions at the Londonderry, Plymouth, and Bridgewater sites in accordance with this Consent Decree and shall finance and perform operation and maintenance to the extent required by this Consent Decree, including any Operation and Maintenance Plans approved or developed by Plaintiffs pursuant to the Londonderry Site and Bridgewater Site RD/RA Plans. All work to be performed by the Settling Parties at the Londonderry, Bridgewater, and Plymouth sites shall be performed in a manner that is consistent with CERCLA and, to the

extent practicable, with the NCP. The work to be performed at the Londonderry, Bridgewater, and Plymouth sites shall be as follows:

(i) The Settling Parties agree to finance and perform the Londonderry Site RD/RA Plan contained in Appendix B. It is understood by the Parties that EPA has proposed to adopt certain modifications to the Londonderry ROD pursuant to the Proposal to Amend the Record of Decision, attached hereto as Appendix C, subject only to public comment or information or analyses not previously known or available. In the event that EPA, in consultation with New Hampshire, modifies the Londonderry ROD as the result of the Proposal to Amend the Record of Decision, the Londonderry RD/RA Plan will be modified accordingly and the obligations of the Settling Parties under this Consent Decree to perform and finance response actions at the Londonderry site as set forth in the RD/RA Plan as modified shall continue in full force and effect notwithstanding such modifications. In any event, the Settling Parties remain obligated to achieve the performance standards set forth in the Londonderry site ROD. In the event that Settling Parties invoke the Dispute Resolution mechanism set forth in paragraph 23 of this Consent Decree with respect to EPA's proposed modifications to the RD/RA Plan, review under said Dispute Resolution mechanism shall be based on the Administrative Record.

(ii) With respect to the performance of the Londonderry Site RD/RA Plan, the Tinkhams shall, in the first instance, be responsible for performance of that portion of the Londonderry Site RD/RA Plan designated as the "Derry POTW Connection Work." Settling Parties other than the Tinkhams shall not be responsible for performance of said Derry POTW Connection Work or payment of any fines or penalties imposed with respect to the Derry POTW Connection Work pursuant to paragraph 24 of this Consent Decree or otherwise imposed by law. However, Settling Parties other than the Londonderry Owners shall become responsible to perform said Derry POTW Connection Work upon receipt of sixty (60) days notice from EPA following a determination by EPA that the Tinkhams are unable to complete said Work. In the event that the Settling Parties other than the Londonderry Owners become obligated to perform said Derry POTW Connection Work in accordance with this paragraph, EPA and those Settling Parties shall establish a mutually agreeable schedule for performance. Notwithstanding any other provision in this Consent Decree, Settling Parties other than the Londonderry Owners shall, in the event that said Settling Parties receive notice of their responsibility to perform the Derry POTW Connection Work pursuant to this paragraph, have the right to recover from the Tinkhams all costs incurred in performing such POTW Connection Work.

(iii) With respect to the performance of the Londonderry Site RD/RA Plan, the Settling Parties, other than the Londonderry Owners and the Tinkhams shall, in the first instance, be responsible for performance of all work provided for in the Londonderry Site RD/RA Plan other than that work described in subparagraph 7.A(ii) of this Consent Decree. The Londonderry Owners and Tinkhams shall not be responsible for performance of the other Londonderry Site RD/RA Plan work or responsible for any fines or penalties imposed with respect to the other Londonderry Site RD/RA Plan work pursuant to paragraph 24 of this Consent Decree or otherwise imposed by law. However, Tinkhams shall become responsible to perform said other Londonderry Site RD/RA Plan work upon receipt of sixty (60) days notice from EPA that the Settling Parties other than Tinkhams and the Londonderry Owners are unable to complete said work. In the event that the Tinkhams become obligated to perform said other Londonderry Site RD/RA Plan work in accordance with this subparagraph, EPA and Tinkhams shall establish a mutually agreeable schedule for performance. Notwithstanding any other provision in this Consent Decree, Tinkhams, in the event that they receive notice of their responsibility to perform the other Londonderry Site RD/RA Plan work pursuant to this subparagraph, shall have the right to recover from the Settling Parties, other than the Londonderry Apartment Complex Owners, all costs incurred in performing such

other Londonderry Site RD/RA Plan work. The obligations of this subparagraph are governed by the Londonderry Site Participation Agreement between the Settling Parties at the Londonderry site.

(iv) The Settling Parties agree to finance and perform the Bridgewater Site RD/RA Plan contained in Appendix D, hereto. The Settling Parties shall achieve the performance standards set forth in the Bridgewater site ROD or any amendment thereto.

(v) If the EPA subsequently determines that the Londonderry or Bridgewater RD/RA Plans or their implementation does not result in the satisfactory achievement of the performance standards in the respective site RODs or does not assure that human health and the environment are adequately protected at the respective site, or if the Parties otherwise agree, the EPA, in consultation with the Appropriate State, consistent with the provisions of CERCLA and the NCP, may modify, add to or otherwise change the respective RD/RA Plan. EPA's decision shall be binding on the Settling Parties, unless they invoke the dispute resolution mechanism in paragraph 23. In any such dispute, the Court shall, with respect to all issues for which it is appropriate to do so under CERCLA or the Administrative Procedure Act, limit its review to the Administrative Record.

(vi) The Settling Parties agree to finance and perform the Plymouth Site Removal Plan, as set forth in Appendix E, hereto. To the extent that Plaintiffs seek to modify, add to, or otherwise change the Removal Plan set forth in Appendix E, such changes shall be agreed upon by EPA, the Appropriate State and the Settling Parties. In the event that agreement cannot be reached, EPA shall notify the Settling Parties of its position and the Site Removal Plan shall be so modified. In the event that Settling Parties invoke the Dispute Resolution mechanism set forth in paragraph 23 of this Consent Decree with respect to EPA's proposed modifications to the Removal Plan, review under said Dispute Resolution mechanism shall be based on the Administrative Record.

:

B. Payment of Bridgewater, Plymouth and Londonderry Site Oversight Costs. The Settling Parties shall reimburse the Plaintiffs for all costs incurred by Plaintiffs in connection with the review or development of plans, reports, and other items and the oversight of work on the Bridgewater, Plymouth and Londonderry sites pursuant to this Consent Decree, provided however that Settling Parties shall not be obligated pursuant to this Consent Decree: at the Bridgewater site, for such oversight costs in excess of ten percent (10%) of Settling Parties' costs incurred in performance of the Bridgewater site Response Action or \$505,011, whichever is greater, but in no event shall Settling

Parties' liability for oversight costs exceed 12.5% of actual costs incurred in performance of the Bridgewater site Response Action; at the Plymouth site, for such oversight costs in excess of ten percent (10%) of Settling Parties' costs in performance of the Plymouth site removal action or \$46,000, whichever is greater, but in no event shall Settling Parties' liability for oversight costs exceed 12.5% of actual costs incurred in performance of the Plymouth site Response Action; or, at the Londonderry site, for such oversight costs in excess of ten percent (10%) of Settling Parties' costs incurred in performance of the Londonderry site Response Action or \$990,912, whichever is greater, but in no event shall Settling Parties' liability for oversight costs exceed 12.5% of actual costs incurred in performance of the Londonderry site Response Action. Plaintiffs expressly agree to waive in this action or in any other proceeding any right they may have to recover from Settling Parties oversight costs in connection with the performance of the Response Actions pursuant to this Consent Decree at the Londonderry, Bridgewater, and Plymouth sites in excess of the amounts set forth in this subparagraph. Nothing in this Consent Decree, however, shall limit Plaintiffs' right to seek recovery of any unreimbursed oversight costs from any party not a signatory to this Consent Decree. At the end of each federal government fiscal year or at the conclusion of the activities to be conducted under this Consent Decree, whichever comes first,

EPA and the States will submit to Settling Parties an accounting of all oversight costs incurred by the United States and by the States with respect to this Consent Decree. Subject to the Dispute Resolution provision, as provided in paragraph 23 herein, Settling Parties shall, within 30 calendar days of receipt of that accounting, pay these oversight costs in accordance with the procedures of paragraph 19.

C. Payment of Bridgewater and Londonderry De Minimis Settlement Premiums. In consideration of the assumption by Settling Parties of the risks of performance of the remaining response actions at the Bridgewater and Londonderry sites, the settlement premiums associated with the Londonderry or Bridgewater sites for government response costs collected or to be collected in any de minimis settlement shall be paid to the Settling Parties to defray said risks of performance; provided however, payments shall be made to Settling Parties only for such premiums collected from de minimis parties who committed to participate in a de minimis settlement with respect to any of the Cannons Sites prior to August 31, 1988. For the convenience of the Parties in accounting for these premiums, these premiums shall be deducted from the settlement payments required for the Nashua site pursuant to paragraph 6 herein.

8. ENGAGEMENT OF RESPONSE ACTION CONTRACTOR(S). As required by the Bridgewater and Londonderry RD/RA Plans and by the Plymouth Site Removal Plan, Settling Parties shall engage for each site a qualified and experienced Response Action Contractor ("Contractor") to perform the activities set forth in the respective plan for each site. All work performed by said Contractor pursuant to this Consent Decree shall be under the general direction and supervision of a qualified professional with expertise and experience in hazardous waste site clean-up. The contractual agreement between Settling Parties and the Contractor shall require the Contractor, as a condition of successful performance of the contract, to perform the Response Action consistent with the provisions of this Consent Decree and a copy of this Consent Decree shall be provided to each Contractor. Written notice of the engagement of the Contractor together with a statement of qualifications shall be provided to EPA and the Appropriate State in advance of said Contractor commencing a Response Action pursuant to this Consent Decree. Within fourteen (14) days of receipt of said notice, Plaintiffs shall have the right to disapprove any such Contractor based on professional qualifications. In the event that Plaintiffs exercise their right of disapproval pursuant to this paragraph, Settling Parties shall have a reasonable time, not less than thirty (30) days, in which to select an alternative Contractor

and to submit to EPA and the Appropriate State a statement of the qualifications of said alternative Contractor.

9. FINANCIAL ASSURANCE.

A. Execution of Trust Agreement. Within ten (10) days after entry of this Consent Decree, the Settling Parties shall provide Plaintiffs with fully executed Trust Agreements establishing Trust Funds for financing performance of the Response Actions at the Londonderry and Bridgewater sites in the forms set forth in Appendix F hereto.

B. Londonderry Trust Fund

(i) Within sixty (60) days after entry of the Consent Decree, or approval by EPA of the Londonderry Site RD/RA Plan, whichever date is later, the Settling Parties shall pay into the Londonderry Trust Fund (the "Londonderry Trust") 75% of the projected cost of construction for the Londonderry Site RD/RA Plan.

(ii) Pursuant to the terms of the Londonderry Trust, the Trustee shall notify each Settling Party when 60% of the funds initially deposited in the Londonderry Trust have been expended. Within thirty (30) days after receipt of such notice,

the Settling Parties shall pay into the Londonderry Trust sums equalling 100% of the projected, remaining costs of completing construction of the Londonderry Site RD/RA Plan.

(iii) Pursuant to the terms of the Londonderry Trust, the Trustee shall notify the Settling Parties and the Plaintiffs when 90% of all funds deposited in the Londonderry Trust have been expended. Along with such notice, and every year thereafter until termination of this Consent Decree, the Settling Parties shall prepare and submit to EPA and the States annual projections of the costs necessary to fulfill their obligations under this Consent Decree. In the event such projected costs exceed the amount remaining in the Londonderry Trust, the Settling Parties shall, within thirty (30) days after completion of the cost projection identifying the shortfall, pay into the Londonderry Trust an amount sufficient to eliminate the shortfall and provide a contingency fund for the annual period equal to fifteen (15) percent of the projected costs for the period. The annual period for projections and for reporting may be modified as agreed in writing by the Parties.

(iv) The Londonderry Apartment Complex Owners shall pay the Londonderry Trust an amount equal to \$400,000 on or before the sixtieth day after entry of this Consent Decree, for the purpose of contributing to performance of the Londonderry

site Response Actions by the Settling Parties. None of the amounts paid under this subparagraph shall be construed as fines, penalties, or sanctions. Upon receipt of documentation that such payment has been made, EPA and New Hampshire will certify the completion of the Londonderry Apartment Owners' responsibilities under this Consent Decree with respect to the Londonderry site subject to the limitations set forth in paragraph 26. This certification is not the certification of the remedy referenced in Section 122(f)(3) of CERCLA.

C. Bridgewater Trust Fund

(i) Within sixty (60) days after entry of the Consent Decree, or approval by EPA of the Bridgewater Site RD/RA Plan, whichever date is later, the Settling Parties shall pay into the Bridgewater Trust Fund (the "Bridgewater Trust") 75% of the projected cost of construction for the Bridgewater Site RD/RA Plan.

(ii) Pursuant to the terms of the Bridgewater Trust, the Trustee shall notify each Settling Party when 60% of the funds initially deposited in the Bridgewater Trust have been expended. Within thirty (30) days after receipt of such notice, the Settling Parties shall pay into the Bridgewater Trust sums

equalling 100% of the projected, remaining costs of completing construction of the Bridgewater Site RD/RA Plan.

(iii) Pursuant to the terms of the Bridgewater Trust, the Trustee shall notify the Settling Parties and the Plaintiffs when 90% of all funds deposited in the Bridgewater Trust have been expended. Along with such notice, and every year thereafter until termination of this Consent Decree, the Settling Parties shall prepare and submit to EPA and the States annual projections of the costs necessary to fulfill their obligations under this Consent Decree. In the event such projected costs exceed the amount remaining in the Bridgewater Trust, the Settling Parties shall, within thirty (30) days after completion of the cost projection identifying the shortfall, pay into the Bridgewater Trust an amount sufficient to eliminate the shortfall and provide a contingency fund for the annual period equal to fifteen (15) percent of the projected costs for the period. The annual period for projections and for reporting may be modified as agreed in writing by the Parties.

D. The Settling Parties shall be obligated at all times to make appropriate payments to the respective Trust Funds when and to the extent necessary to ensure the uninterrupted progress and timely completion of each Response Action.

E. None of the Payments made to the Londonderry or Bridgewater Trust Funds shall be construed as fines, penalties or sanctions.

10. DESIGNATION OF SETTLING PARTIES' COORDINATOR. Within ten (10) days of the entry of the Consent Decree, the Settling Parties shall designate a Coordinator who shall be responsible on their behalf for administration of reports and actions called for by this Consent Decree and any Site RD/RA or Removal Plans hereunder and shall notify EPA and the States in writing of the name, address, and telephone number of the Coordinator. Within twenty (20) days of the entry of this Consent Decree, EPA, the Commonwealth and New Hampshire shall each designate a Coordinator who shall be responsible on their behalf for implementation of the Consent Decree and shall notify the Settling Parties' Coordinator of the name, address, and telephone number of the Plaintiffs' respective Coordinators. The Coordinators shall serve as the Settling Parties' and Plaintiffs' respective representatives, and receipt by a Coordinator of any notice, report, or other communication pursuant to this Consent Decree shall be deemed to be receipt by all of the Parties represented by said Coordinator. The Parties agree to direct copies of all notices and written communications with EPA and the States to the Coordinators and to the respective site Remedial Project Manager. Any notices tendered by the Coordinator pursuant to

this Consent Decree shall be binding and enforceable upon each and all of the Parties represented by said Coordinator. At least ten (10) days advance notice, in writing, shall be provided for any change in Coordinator and at least three (3) working days notice shall be provided with respect to any change in a Coordinator's address or telephone number.

11. PLAINTIFFS' REMEDIAL PROJECT MANAGERS.

A. Designation of Remedial Project Managers. Within thirty (30) days of the entry of this Consent Decree, EPA and the States shall each designate a Remedial Project Manager (RPM) for each site and shall notify the Settling Parties of the RPMs' names, addresses, and telephone numbers. If any functions of an RPM are delegated to a designee or contractor, the RPM shall notify the Settling Parties of such delegation and of the name, address, and telephone number of the designee.

B. Designation of Lead RPM. EPA will be the lead agency as defined in the NCP with respect to the Response Actions. The EPA RPM or his designee shall have the authority vested by 40 C.F.R. § 300.68(a)(2) or any similar provision in future amendments or revisions to the NCP. The EPA RPM will be assisted by and work in cooperation with the States' RPMs. Absence of an RPM from the site shall not be cause for stoppage of work.

C. Field Decisions by the RPMs. The EPA RPM, or the Appropriate State's RPM acting with the concurrence of the EPA RPM, may make or authorize field modifications to the studies, techniques, procedures, or designs undertaken or utilized in performing work required under this Consent Decree; provided that any such field modification is mutually agreeable to EPA, the Appropriate State, and the Settling Parties.

D. Communications with RPMs. The respective RPMs shall be responsible for the receipt of plans, specifications, schedules, and reports submitted to EPA and the States for review and approval. Any request by the Settling Parties for a meeting or other conference shall be communicated to both the EPA and the Appropriate State RPM.

12. SETTLING PARTIES' REMEDIAL PROJECT MANAGERS. At their election, Settling Parties shall have the right to designate a Project Manager for each of the Response Actions to be conducted at the Londonderry, Bridgewater, and Plymouth sites. If Settling Parties designate any Project Manager, notice of said Project Manager's name, address, telephone number, and the Response Action over which he or she will have responsibility shall be given to EPA's and the Appropriate State's respective Coordinators. Thereafter, said Project Manager shall have lead

responsibility on behalf of Settling Parties for coordinating and directing said Response Action. Plaintiffs agree to direct copies of all notices and written communications with respect to said Response Action to said Project Manager; however, nothing in this paragraph shall abrogate Plaintiffs' responsibility to give notice to Settling Parties' Coordinator in accordance with the terms of this Consent Decree.

13. PROCEDURE FOR SUBMISSION OF DELIVERABLES TO EPA AND THE STATES. All deliverables identified in this Consent Decree, the RD/RA Plans with respect to the Bridgewater or Londonderry sites, and the Plymouth Site Removal Plan shall be so delivered to EPA and the Appropriate States in accordance with the schedules set forth in this Decree or in those plans. Prior to receipt of final EPA and State approval, any report submitted to EPA and the States for approval shall be marked "Draft" on each page and shall include, in a prominent location in the document, the following disclaimer: "This document is a DRAFT which has not received final EPA and State approval." EPA and the Appropriate State will review Reports in accordance with paragraph 15 of this Consent Decree.

14. PROGRESS REPORTS.

A. Schedule for Periodic Progress Reports. The Settling Parties shall submit written progress reports to EPA and the Appropriate States concerning activities undertaken pursuant to this Consent Decree by the fifth working day of each calendar month, or as otherwise agreed in writing by EPA, the Appropriate State and the Settling Parties, until completion of all construction required under this Consent Decree. These reports shall describe all significant developments during the preceding month, including but not limited to the work performed and any problems encountered, and the developments anticipated during the next calendar month, including but not limited to work to be performed, anticipated problems, and planned resolutions of past or anticipated problems. After the completion of all construction required under this Consent Decree, the Settling Parties shall submit reports on a quarterly basis, or as the Parties may otherwise agree in writing, until all work required under this Consent Decree is completed. Such quarterly reports shall be consistent with the requirements of the Operation and Maintenance Plan as approved or developed by EPA pursuant to the Site RD/RA Plan. The Settling Parties shall also provide copies of any final reports described in this paragraph concerning the

Plymouth site to the Plymouth Owners in accordance with the schedule set forth herein.

B. Annual Reports. Each year, on the anniversary of the entry of this Consent Decree, the Settling Parties shall submit to the Court an annual report of their activities to comply with the Consent Decree and shall serve copies of the report to the United States, EPA, the States and the Appropriate Site Owners.

15. PROCEDURE FOR REVIEW, REVISION AND FINAL APPROVAL OF PLANS, REPORTS, AND ITEMS REQUIRING GOVERNMENT APPROVAL. All plans, deliverables, and reports ("Reports") identified in the RD/RA Plans, the Removal Plans ("Plans") and this Consent Decree for delivery to EPA shall be so delivered in accordance with the schedules set forth in the Plans and this Consent Decree. EPA and the Appropriate State will review the Reports to determine whether the Reports are consistent with the requirements of the Plans and this Consent Decree. If EPA, in consultation with the Appropriate State, determines that revisions to a Report are necessary, EPA will notify Settling Parties of EPA's requested revisions and EPA, the Appropriate State and the Settling Parties will expeditiously confer to discuss such requested revisions. Settling Parties shall thereafter submit a draft of the revised Report in accordance with a schedule for revision set by EPA which is reasonable considering the nature and extent of the

proposed revisions and the time period which was initially available for Settling Parties to produce an acceptable Report. If Settling Parties fail to submit such a revised Report within the specified schedule or in the event that a resubmitted plan or portion thereof is disapproved, EPA and the Appropriate State retain the right to amend or develop the plan or Report. Subject only to their right to invoke the dispute resolution procedures of paragraph 23, the Settling Parties shall implement any such plan or Report as amended or developed by EPA and the State. The Settling Parties shall also provide copies of any reports described in this paragraph concerning the Plymouth site to the Plymouth Owners in accordance with the schedule set forth herein. The Plymouth Owners reserve their right to comment on any such report.

16. SITE ACCESS.

A. Required Site Access Agreements. The Plymouth and Londonderry Owners agree to provide such access to all property under their ownership as is reasonably necessary, consistent with Section 104(e) of CERCLA, to perform the Response Actions at the Plymouth and Londonderry sites. To the extent that any site on which Response Actions are being performed under this Consent Decree is presently owned by persons other than Parties to this Consent Decree, the Settling Parties shall use all reasonable

efforts necessary to obtain site access agreements from the owners within sixty (60) days of the effective date of this Consent Decree. Such access agreements shall provide the United States, the States, the Settling Parties, and their representatives and contractors access to the site at all times for purposes of implementing and monitoring the Response Action.

B. Other Required Property Access. To the extent access to property other than the sites is required for the proper and complete implementation of this Consent Decree, including performance of the Derby POTW Connection Work, the Settling Parties shall use all reasonable efforts necessary to gain such access to such property.

C. Failure to Obtain Site Access. In the event that site access agreements sufficient for implementation and monitoring of the Response Action are not obtained within the sixty-day period, the Settling Parties shall notify EPA and the State within sixty-five (65) days of the effective date of this Decree regarding the lack of such agreements and the efforts made to obtain them. To the extent that the Settling Parties are unable to obtain access pursuant to subparagraphs A or B of this paragraph, EPA will obtain access pursuant to Section 104 of CERCLA and, except in circumstances where the Settling Parties have made all reasonable

efforts to obtain such access, Settling Parties shall reimburse the United States for all costs incurred in obtaining such access, including attorneys fees. In such event, EPA will designate the Settling Parties and their contractors as EPA's authorized representatives, and the Settling Parties agree that they shall indemnify the United States and hold the United States harmless for all claims which may arise out of events which occur while they are acting as EPA's authorized representatives under Section 104, including but not limited to all attorneys' fees.

D. Observation of Settling Parties' Field Activities.

Subject to Settling Parties' right of access to the sites, as provided in the preceding subparagraph, Settling Parties shall allow EPA's and the Appropriate State's RPM, and other EPA and State employees, agents, consultants, contractors and authorized representatives to enter and move about the sites at all reasonable times, including, but not limited to, any time that work is being carried out pursuant to this Consent Decree, for the purpose of inspecting and observing progress in implementing the activities pursuant to this Consent Decree and for the purpose of verifying the data submitted to EPA and the States. Settling Parties shall permit such persons to record all field activities by means of photographic or other recording equipment, to obtain split samples, and to inspect and copy all non-privileged records, documents and other writings which in any way

pertain to the Response Actions undertaken pursuant to this Consent Decree.

E. Plaintiffs' Reservations. Nothing herein limits or otherwise affects any right of entry held by the United States or the States pursuant to applicable laws, regulations, or permits.

17. RELATIONSHIP TO OTHER LAWS. All actions required to be taken pursuant to this Consent Decree shall be undertaken in accordance with the requirements of CERCLA and, to the extent practicable, with the NCP. In the event of any inconsistencies between any laws or regulations, CERCLA shall govern.

18. CREATION OF DANGER.

A. Response to Endangerment. Upon obtaining information concerning the occurrence of any unanticipated event during a Response Action that causes or threatens a release of hazardous substances from the site, or that threatens public health, welfare or the environment, Settling Parties shall notify within one (1) business day the EPA RPM, or in the event of his or her unavailability, shall notify within the same one business day the Emergency Response Unit, Region I, United States Environmental Protection Agency, setting forth the events that occurred and the measures taken and to be taken, if appropriate, to mitigate any

harm caused or threatened by the event and to prevent the reoccurrence of such an event. Settling Parties shall have no obligations under this paragraph to undertake measures to mitigate any such event not related to their performance of a Response Action. Regardless of whether or not such a report is made to EPA, if EPA determines that activities undertaken in connection with this Consent Decree have caused or may cause a threat to on-site personnel or to the public health or welfare or to the environment, EPA may: (a) order Settling Parties to stop work at that site for such period of time as may be needed to abate any such threat and/or; (b) undertake any actions which EPA determines are necessary to abate such threat. The Settling Parties shall also provide any notices required pursuant to this subparagraph concerning the Plymouth site to the Plymouth Owners in accordance with the schedule set forth herein.

B. Plaintiffs' Response to Endangerment. Nothing in the preceding subparagraph shall be deemed to limit the power and authority of EPA, the States or the Court to take, direct, or order all appropriate action to protect public health or welfare or the environment or to prevent, abate, or minimize an actual or threatened release of Hazardous Substances on, at, or from the site.

19. PROCEDURE FOR REIMBURSEMENT OF RESPONSE COSTS.

A. Procedure for Payments to EPA. All payments to EPA required by this Consent Decree shall be in the form of a certified check or checks payable to "Environmental Protection Agency, Hazardous Substance Superfund." The certified check(s) shall specifically reference the Cannons Sites and shall be forwarded to EPA Superfund, P.O. Box 371003M, Pittsburgh, Pennsylvania, 15251. Copies of the certified check(s) and transmittal letters shall be sent to the EPA Coordinator. Alternatively, payments to EPA may be made by wire transfer to EPA Account Number 910-8878 at the Mellon Bank in Pittsburgh, Pennsylvania. All such payments shall include the wire transfer number ("ABA Number") of the Mellon Bank on the wire transfer form as follows:

ABA #: 043000261/Mellon Bank Pittsburgh
EPA-Superfund

The transferor shall include the transferring bank's name, ABA Number, date of transfer and amount transferred on the wire transfer form. This information, along with a transmittal letter specifically referencing the Cannons Sites, shall also be forwarded to the EPA Coordinator and to Ivery Jacobs, U.S.

Environmental Protection Agency, Financial Management Division,
401 M Street, SW, Washington, D.C. 20040.

B. Procedure for Payments to the Commonwealth. All payments to the Commonwealth required by this Consent Decree shall specifically reference the Cannons Sites and shall be made by a certified check or checks payable to the "Commonwealth of Massachusetts" forwarded to Nancy E. Harper, Assistant Attorney General, Environmental Protection Division, Department of the Attorney General, One Ashburton Place, Boston, Massachusetts, 02108.

C. Procedure for Payments to New Hampshire. All payments to New Hampshire required by this Consent Decree shall specifically reference the Cannons Sites and shall be made by a certified check or checks payable to "Treasurer, State of New Hampshire" forwarded to George Dana Bisbee, Senior Assistant Attorney General, Office of the Attorney General, Environmental Protection Bureau, State House Annex, 25 Capitol Street, Concord, New Hampshire, 03301.

20. INDEMNIFICATION AND INSURANCE.

A. Indemnification. The Settling Parties shall indemnify and save and hold harmless the United States, the States, and

their officials, agents, employees, contractors, and representatives from any and all claims or causes of action arising from or on account of acts or omissions of the Settling Parties, their officers, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Consent Decree. Neither the United States nor the States shall be held out as a party to any contract entered into by or on behalf of the Settling Parties in carrying out activities pursuant to this Consent Decree.

B. Insurance. Prior to commencing any on-site work, for each site on which such work is undertaken pursuant to this Consent Decree, the Settling Parties' Response Action Contractors shall secure, and shall maintain for the duration of this Consent Decree, general liability and automobile insurance with limits of two (2) million dollars, combined single limit, or as otherwise agreed by the Parties. The Settling Parties shall use their best efforts to name as insureds the United States and the States. In addition, for the duration of this Consent Decree, the Settling Parties' Response Action Contractors shall satisfy all applicable laws and regulations regarding the provision of workmen's compensation insurance. Prior to commencement of work under this Consent Decree, the Settling Parties shall provide EPA and the

States with a certificate of insurance and, upon request, a copy of the insurance policy or policies.

21. CERTIFICATION OF SETTLING PARTIES' PERFORMANCE OF RESPONSE ACTIONS. Within ninety (90) days after the Settling Parties conclude that all work other than post-remedy monitoring and maintenance required by the Londonderry or Bridgewater Site RD/RA Plans or that all work required by the Plymouth Site Removal Plan has been fully performed at the site in accordance with this Consent Decree, the Settling Parties shall so notify the United States Department of Justice, EPA and the Appropriate State by submitting a written report by a professional engineer certifying that all such activities have been completed in full satisfaction of the requirements of this Consent Decree relevant to that site. Within sixty (60) days of receipt of said notice, EPA shall either (1) request a reasonable extension which shall not be unreasonably withheld by Settling Parties, (2) certify that the Response Action at said site is complete, except for post-remedy monitoring and maintenance or (3) if EPA or the Appropriate State, after appropriate consultation, determines that the work required by the RD/RA Plan or Removal Plan or any aspect or portion thereof has not been completed in accordance with this Consent Decree, notify the Settling Parties in writing what must be done to complete such work and setting forth a schedule for performance of the work. Failure by EPA or the Appropriate State

to respond within sixty days shall not constitute certification under this paragraph. Subject to the dispute resolution procedures set forth in paragraph 23 herein, the Settling Parties shall perform all work described in the notice in accordance with the specifications and schedules established by EPA and the State. With respect to the Bridgewater and Londonderry sites such certification shall not discharge or otherwise limit Settling Parties' obligations to complete post-remedy monitoring and maintenance activities consistent with this Consent Decree and the RD/RA Plans for those sites. Certification pursuant to this paragraph is not the certification of the remedy referenced in Section 122(f)(3) of CERCLA. However, certification pursuant to this paragraph shall constitute a finding by EPA and the Appropriate State that the work performed by the Settling Parties pursuant to the Consent Decree was consistent with the NCP. The Settling Parties shall also provide copies of any reports described in this paragraph concerning the Plymouth site to the Plymouth Owners in accordance with the schedule set forth herein.

22. EXCUSABLE DELAYS IN PERFORMANCE.

A. Circumstances Constituting Excusable Delay. With respect to Settling Parties' compliance with any deadline set forth in this Consent Decree, including any implementation schedules contained in plans approved by EPA pursuant to the

Consent Decree, and with respect to the penalty provisions of paragraph 24, herein, no stipulated penalties or other sanctions will be imposed for delay directly caused by any of the following which could not have been overcome by Settling Parties' due care:

(i) any act of God;

(ii) any Order issued to Settling Parties by EPA under the Creation of Danger provision set forth in paragraph 18, provided that such delay did not arise as the result of the performance of the Response Action;

(iii) any delay which results from inability to secure access to the site if the cause of such inability is not within the reasonable control of Settling Parties;

(iv) any delays caused by a failure on the part of any of the Plaintiffs to complete in a timely manner a review of plans and reports or any delay occasioned by a disagreement between EPA and the Appropriate State concerning any Response Action or any plan or report in connection therewith; and

(v) any other cause beyond the control of Settling Parties;

provided, however, that increases in the cost of performance of any of the Response Actions shall not excuse such performance nor affect the applicability of the penalty provisions and/or other sanctions which are provided for under this Decree. Such penalties and sanctions shall be avoided only if, and only to the extent that such delays materially interfered with or prevented Settling Parties' execution of their responsibilities during the period of such delay. Settling Parties acknowledge that they will have the burden of justifying excuses for delay in performance under this paragraph.

B. Notice of Excusable Delay. Settling Parties shall notify EPA and the Appropriate State within five (5) business days in the event that circumstances occur which Settling Parties assert should trigger the excuse provisions of this paragraph, and shall identify with specificity the cause or causes of such delay and the estimated duration of such delay. Failure to notify EPA and the Appropriate State shall result in a waiver of Settling Parties' right to assert that the delay should be excused under the terms of this paragraph. Upon receipt of such notification, EPA and the Appropriate State will determine whether the delay is appropriately excused under this paragraph and shall promptly notify Settling Parties. Settling Parties further agree to use their best efforts to minimize any delay which may result.

23. DISPUTE RESOLUTION.

A. Initial Informal Negotiation Period. In accordance with Section 121(e)(2) of CERCLA, the Parties to this Consent Decree shall attempt to resolve expeditiously and informally any disagreements concerning implementation of this Consent Decree or any work required hereunder.

B. Initiation of Dispute Resolution. In the event that any dispute arising under this Consent Decree is not resolved expeditiously through informal means, any Party desiring dispute resolution under this paragraph shall serve prompt written notice on the other Parties to the Decree.

C. Procedure for Dispute Resolution. Within ten (10) days of the service of notice of dispute pursuant to subparagraph 23.B, the Party who gave the notice shall serve on the other Parties to this Decree a written statement of the issues in dispute, the relevant facts upon which the dispute is based, and factual data, analysis or opinion supporting its position, and all supporting documentation on which such Party relies (hereinafter the "Statement of Position"). Opposing Parties shall serve their Statements of Position, including supporting documentation, no later than ten (10) days after receipt of the

complaining Party's Statement of Position. In the event that these 10-day time periods for exchange of Statements of Position may cause a delay in the work, they shall be shortened by agreement or to a reasonable period which cannot be less than one (1) business day after receipt of notice by EPA.

(i) If the Parties have not resolved the dispute after the exchange of Statements of Position and the dispute involves the adequacy, selection, or extent of a Response Action, then the EPA shall issue its decision concerning the dispute. This decision shall be binding on the Parties, unless they file a notice of judicial appeal in this Court within ten (10) days of receipt of the decision. Where it is appropriate under CERCLA or the Administrative Procedure Act, EPA will prepare an Administrative Record. Also, where it is appropriate, EPA may issue such administrative orders authorized by CERCLA to accompany its decision and such order may be administratively enforced.

(ii) If the Parties have not resolved the dispute after the exchange of Statements of Position and the dispute does not involve a matter within the scope of the previous subparagraph 23.C(i) of this paragraph, then any Party may, within ten (10) business days after the exchange of Statements of Position, submit the dispute to this Court for resolution.

(iii) Where appropriate under CERCLA or the Administrative Procedure Act, the Court's review shall be limited to the Administrative Record. However, nothing in this subparagraph shall otherwise be construed to limit the Court to review on the Administrative Record. By entering this Consent Decree, all Parties reserve their rights to argue what standard of review is appropriate under applicable law with respect to any dispute submitted to the Court under this Consent Decree.

D. Disputes Pursuant to Paragraph 15. In the event that the dispute arises pursuant to paragraph 15 herein, which dispute has not been resolved after the exchange of Statements of Position, the Settling Parties shall within ten (10) days submit the dispute to this Court for resolution.

E. Applicability of Dispute Resolution Procedures. The dispute resolution procedures set forth in this paragraph shall apply to any dispute arising under or in connection with this Consent Decree irrespective of whether said procedure is expressly referred to in any paragraph in this Consent Decree.

F. Effect on Timing of Obligations. Except as provided in subparagraph 24.F, the invocation of the procedures stated in this paragraph shall not extend or postpone Settling Parties'

obligations under this Consent Decree with respect to the disputed issues unless and until EPA finds, or the Court orders, otherwise. In the event that Settling Parties prevail in a dispute resolution proceeding under this paragraph, no stipulated penalties shall be assessed concerning the matter under dispute for the period of the dispute resolution proceeding.

24. DELAY IN PERFORMANCE/STIPULATED PENALTIES. Except for delays which constitute excusable delay, as set forth in paragraph 22, herein, for each day during which Settling Parties fail to comply as set forth below, Settling Parties shall pay to the United States and the Appropriate State the sums set forth below as stipulated penalties. Equal portions of all such stipulated penalties shall be payable to EPA and to the Appropriate State.

A. For each day during which Settling Parties fail to perform in accordance with the time schedules for major deliverables and milestones as set forth in the Site RD/RA Plans for the Londonderry and Bridgewater sites and in the Plymouth Site Removal Plan, Settling Parties shall be liable to the United States and the Appropriate State for stipulated penalties in the following amounts:

<u>Period of Failure to Comply</u>	<u>Penalty Per Violation Per Day</u>
1st through 7th day	\$ 1,000/day
8th through 28th day	\$ 2,000/day
29th through 44th day	\$ 4,000/day
45th through 59th day	\$ 7,500/day
60th day and beyond	\$15,000/day

B. If Settling Parties fail to submit a progress report within five (5) days after its due date, Settling Parties shall be liable to the United States and the Appropriate State for stipulated penalties in the amount of \$1,000.00 per violation for each day during which Settling Parties fail to submit any progress report.

C. Settling Parties shall be liable to the United States and the Appropriate State for stipulated penalties in the amount of \$1,000.00 per violation for each day during which they fail to comply with any payment requirement, notification requirement or completion deadline for deliverables not within the scope of subparagraph A of this paragraph.

D. Stipulated penalties incurred under subparagraph A of this paragraph shall begin to accrue on the day that performance

is due or noncompliance occurs, and shall continue to accrue through the final day of correction of the noncompliance. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

E. Stipulated penalties incurred under subparagraphs B or C of this paragraph shall not begin to accrue until receipt by Settling Parties of oral notice, followed within three (3) business days by written notice, of failure to comply with the Consent Decree which states in detail the nature of the failure and provides Settling Parties with a reasonable opportunity to cure said failure. After receipt of notice and opportunity to cure, stipulated penalties for Settling Parties' failure to comply with the Consent Decree as set forth in said notice shall continue to accrue until Settling Parties' failure to comply ends.

F. In acknowledgement of the fact that this settlement is being entered under circumstances in which it has not been possible to prepare the Bridgewater and Londonderry RD/RA Plans and the Plymouth Removal Plan in the level of detail that would ordinarily be available prior to entry of such a settlement and that the timing of this settlement has been rendered extraordinarily difficult by virtue of the four sites which the settlement encompasses, the Parties agree that the following

provisions shall apply: In the event of the assertion of a dispute under paragraph 23 concerning substantial modification to an RD/RA or Removal Plan or concerning substantial additional work required by EPA to be performed beyond that specifically provided for in the site RD/RA or Removal Plan or concerning the initial development of the Work Plans pursuant to the RD/RA Plans for the Bridgewater or Londonderry sites or the Removal Plan for the Plymouth site, stipulated penalties concerning said dispute shall be limited to a total of \$15,000. With respect to such disputes, no stipulated penalties shall accrue for the first five (5) business days of operation of the dispute resolution procedure in accordance with paragraph 23.

G. All penalties due to the United States and the States under this paragraph shall be payable within thirty (30) days of receipt by the Settling Parties of notification that such penalties are due. Interest shall begin to accrue on the unpaid balance at the end of the 30-day period. Stipulated penalties shall be paid in accordance with the procedures detailed in paragraph 19.

H. The stipulated penalties set forth in this paragraph do not preclude the United States or the States from pursuing any alternative remedies or sanctions which may be available to the United States or the Appropriate State by reason of Settling

Parties' failure to comply with any of the requirements of this Consent Decree. Such remedies and sanctions include, without limitation, a suit for statutory penalties as authorized by CERCLA and state law. In the event that the United States or the Appropriate State obtain a judgment for statutory penalties against Settling Parties, the amount of that judgment shall be reduced by the amount of any stipulated penalties paid pursuant to this paragraph of the Consent Decree in connection with the matter in dispute. Nothing in this Consent Decree shall be construed to prevent the United States or the Appropriate State from waiving imposition of all or part of any stipulated penalties pursuant to this paragraph.

25. JOINT AND SEVERAL LIABILITY. In the event of the insolvency, or other inability, of any one or more Settling Parties to implement the activities or make the payments required by this Consent Decree, the remaining Settling Parties shall complete all such activities and make all such payments in accordance with the Consent Decree; provided, however, no Settling Party shall have any obligation with respect to any of the Cannons Sites for which its name is not listed in Appendix A.

26. COVENANTS NOT TO SUE BY PLAINTIFFS.

A. Covenants Not to Sue. Except as specifically provided in subparagraphs 26.C, 26.D and 26.E of this paragraph, in consideration of actions which will be performed and payments which will be made by the Settling Parties under the terms of this Consent Decree, and except as otherwise specifically provided in this Consent Decree, the United States, the Commonwealth and New Hampshire covenant not to sue or to take any other civil or administrative action for Covered Matters against any of the Settling Parties and their officers, directors, employees or any parent, subsidiary or affiliated corporation or entity whose liability is based on waste generated or transported by said Settling Party or is based on ownership or operation of any of the Cannons sites by said Settling Party. To the extent that any covenant herein becomes void as to any Settling Parties, it also becomes void as to their officers, directors, employees, parents, subsidiaries and affiliated corporations and entities specified in the preceding sentence. None of the covenants set forth herein shall extend to any of the Parties listed in Appendix F, or to any of their officers, directors, employees, parents, subsidiaries or affiliated corporations or entities or to any other person not specifically accorded a covenant by this Consent Decree. A separate covenant not to sue shall apply to

each of the Cannons Sites and shall be independent from each of the other covenants not to sue. Each covenant not to sue shall extend only to the Settling Parties as set forth above and does not release any other person from liability. With respect to future liability in connection with each of the four Cannons Sites, each covenant not to sue with respect to each site shall take effect upon certification by EPA in accordance with Section 122(f)(3) of CERCLA. Each covenant not to sue shall be conditioned upon satisfactory performance by the Settling Parties of their respective obligations under this Consent Decree at the site to which that covenant applies.

B. Covered Matters. Except as provided in subparagraphs 26.C, 26.D and 26.E of this paragraph, Covered Matters with respect to the United States, the Commonwealth and New Hampshire shall include any and all civil and administrative claims available under CERCLA and SWDA, and any and all civil and administrative claims which were asserted or which could have been asserted in the complaint pursuant to Commonwealth and New Hampshire common law or the statutes of the Commonwealth or New Hampshire; provided any such claims arise from the facts surrounding the transactions or occurrences with respect to the Cannons sites. Covered Matters do not include:

(i) Claims based on a failure by the Settling Parties to meet a requirement of this Consent Decree;

(ii) Liability for violations of Federal or State law which occur during implementation of the Response Actions at the Cannons Sites; provided, however, that performance of work in accordance with this Consent Decree or any RD/RA Plan or Removal Plan shall not constitute a violation of Federal or State law;

(iii) Liability arising from the past, present or future disposal, release or threat of release of Hazardous Substances outside the Cannons sites but not originating at the Cannons sites and emanating to the vicinity of the Cannons Sites;

(iv) Liability arising from any Hazardous Substances removed by the Settling Parties from the Cannons Sites except for the Anchor Tank materials removed from the Bridgewater site by certain Settling Parties pursuant to an Administrative Order by Consent, No. I-88-1020;

(v) Liability pursuant to CERCLA to the United States for damages to natural resources within NOAA's trusteeship with respect to the Bridgewater, Plymouth and Nashua sites; and

(vi) Liability pursuant to CERCLA to the Appropriate State for damages to natural resources within the co-trusteeship of NOAA and the Appropriate State with respect to the Bridgewater, Plymouth and Nashua sites.

C. Liability Reopeners after Entry of the Consent Decree.

Subject to subparagraph 26.E, the United States and the States reserve the right to institute proceedings in this action or in a new action seeking to compel the Settling Parties to perform additional Response Actions at one or more of the Cannons Sites or to reimburse the United States and/or the States for response costs in connection with the site or sites if, prior to certification of completion of the remedial action at the site or sites in accordance with Section 122(f)(3) of CERCLA:

(i) Conditions at the site or sites, previously unknown to the United States, are discovered after the entry of this Consent Decree, or

(ii) Information is received after the entry of this Consent Decree,

and these previously unknown conditions or this information indicates that the Response Action at the site or sites is not protective of human health and the environment.

D. Liability Reopeners after Certification of the Remedy. Subject to subparagraph 26.E, the United States and the States reserve the right to institute proceedings in this action or in a new action seeking to compel Settling Parties to perform additional Response Actions at one or more of the Cannons Sites or to reimburse the United States and/or the States for response costs in connection with the site or sites if, subsequent to certification of completion of the Response Action at the site or sites in accordance with Section 122(f)(3) of CERCLA:

(i) Conditions at the site or sites, previously unknown to the United States, are discovered after the certification of completion, or

(ii) Information is received after the certification of completion,

and these previously unknown conditions or this information indicates that the Response Action at the site or sites is not protective of human health and the environment.

E. Liability Reopeners If Response Costs at the Nashua Site Exceed Release Limits. The covenants not to sue with respect to the Nashua site shall be further defined as follows:

(i) Notwithstanding any other provision of this Consent Decree, the United States and New Hampshire agree not to institute proceedings in this action or in a new action seeking to compel Settling Parties to perform additional Response Actions at the Nashua site or to reimburse the United States and/or New Hampshire for response costs in connection with the Nashua site unless and until the total response costs incurred after January 1, 1988 by EPA and New Hampshire at or in connection with the site exceed \$19.0 million. The United States and New Hampshire provide this covenant not to sue pursuant to Section 122(f)(6)(B) of CERCLA based on the existence of exceptional circumstances in light of the extensive information known about Nashua site conditions and about the cost of remedial scenarios at the site and in consideration of the premium paid to the United States and New Hampshire pursuant to subparagraphs 6.B and 6.D with respect to unknown conditions and the premium paid to the United States and New Hampshire pursuant to subparagraph 6.C with respect to expenditures that may be incurred in excess of the \$12.129 expected future costs at the Nashua site up to the \$19.0 million release limit.

(ii) The additional relief authorized to be sought by the United States and New Hampshire under this subparagraph 26.E -- the Nashua site shall be limited to performance of those

Response Actions after the \$19.0 million threshold has been reached or reimbursement of those response costs in excess of the \$19.0 million threshold in total response costs set forth in subparagraph 26.E.(i) above. This threshold will be deemed to have been exceeded if response costs in excess of \$19.0 million have been incurred concerning the Nashua site since January 1, 1988, including indirect costs but not including interest, by the United States, or by New Hampshire, or by any person other than a Settling Party acting pursuant to court or administrative order without regard to whether the Plaintiffs have been reimbursed for these costs from other Parties. If the United States or New Hampshire proposes to seek additional relief under this subparagraph 26.E, the United States and New Hampshire shall prepare an accounting of the response costs incurred after January 1, 1988 in connection with the Nashua Site and shall submit said accounting to the Settling Parties. The threshold shall be deemed to have been exceeded under this subparagraph unless the Settling Parties challenge said accounting within sixty (60) days of receipt. All such challenges shall be made pursuant to the dispute resolution procedures of paragraph 23.

(iii) In the event that the threshold of \$19.0 million is exceeded without the expenditure of sums at the Nashua site in response to unknown conditions or information concerning the Nashua site within the meaning of paragraphs 26.C or 26.D, the

\$700,000 premiums paid pursuant paragraph 6.B and 6.D shall be applied to reduce the amount of additional relief sought against Settling Parties in any proceedings authorized pursuant to this subparagraph 26.E.

F. Exclusions from the Covenants Not to Sue. The covenants not to sue set forth above do not pertain to any matters other than those expressly specified to be Covered Matters. The United States and the States reserve all rights against the Settling Parties with respect to all other matters.

G. Reservation of Rights to Undertake Response Actions. Except as otherwise provided by this Consent Decree, the United States and the States retain all authority and reserve all rights to take any and all Response Actions authorized by law.

H. Settling Parties' Reservation of Rights. In any claim asserted by the United States or the States in this action or in a new action pursuant to subparagraph 26.C, 26.D or 26.E of this paragraph, Settling Parties reserve and retain their right to assert all defenses, whether factual, equitable, or legal, to said claims. The entry of this Consent Decree shall not be construed to be an acknowledgement by any Settling Party that there has been a release or threatened release at any of the Cannon Sites or that any such release or threatened release

constitutes an imminent and substantial endangerment to the public health or welfare or the environment. Additionally, the participation by any Settling Party in this Consent Decree shall not be considered an admission of liability and shall not be admissible in evidence against any Settling Party in this action or in any other action.

I. Covenants by Settling Parties with Respect to Federal Parties. The Settling Parties covenant not to sue the United States Navy, the United States Air Force, the United States Department of Commerce, the United States Postal Service and the United States Coast Guard for Covered Matters. However, to the extent that the Settling Parties expend more than \$5,578,924 at the Bridgewater site, \$460,000 at the Plymouth site, or \$9,909,121 at the Londonderry site, in performance of Response Actions after the effective date of this Consent Decree, the Settling Parties retain whatever rights they may have to sue the United States Navy for contribution with respect to such excess expenditures. Moreover, to the extent that the United States and/or the Appropriate State bring an action or otherwise seek to recover response costs from Settling Parties pursuant to paragraph 26 of this Consent Decree, the Settling Parties retain whatever rights they may have to obtain contribution from the United States Navy for any amounts recovered by the United States or the Appropriate State in any such action.

J. Covenants with Respect to John Tinkham. Except as specifically provided in subparagraphs 26.C, 26.D and 26.E of this paragraph, in consideration of payments which have been made and will be made by Utica Mutual Insurance Company, and except as otherwise provided in this Consent Decree, the United States, the Commonwealth, and New Hampshire covenant not to sue John Tinkham for Covered Matters; provided however that this covenant is coextensive with John Tinkham's right to reimbursement under insurance policies which were issued by the Utica Mutual Insurance Company and numbered 77-336902AAB, 78-336902AAB, 79-336902AAB, and 80-336902AAB and the United States, the Commonwealth and New Hampshire reserve all claims against John Tinkham not covered or not fully reimbursable under the above policies. Notwithstanding the terms of this subparagraph, this covenant not to sue does not, and shall not be construed to, limit, waive or otherwise release any claim against John Tinkham to the extent that such claims may be reimbursable to any extent under insurance policies naming John Tinkham as insured other than the aforementioned policies issued by Utica Mutual Insurance Company.

27. CONTRIBUTION PROTECTION. It is the intention and understanding of the Parties to this Consent Decree that the protection from contribution claims are provided by Section

113(b)(2) of CERCLA applies to any claim for Covered Matters with respect to the Cannons Sites that is asserted or may be asserted by a party not a signatory to this Consent Decree against a Settling Party. The United States and the States expressly find that the settlement reached with the Settling Parties was at arm's length and is in good faith, is a fair settlement of the liability of the Settling Parties, and is in the public interest. The Cash Payment and other consideration provided by Settling Parties pursuant to this Consent Decree shall reduce the potential liability of the other potentially responsible parties with respect to the Cannons Sites. In consideration thereof, it is the intention of the Parties to this Consent Decree to bar without limitation any and all contribution claims for Covered Matters against Settling Parties asserted by parties who are not signatories to this Decree. It is further the intention of the Parties in this Consent Decree to bar all contribution claims for Covered Matters against any Settling Party asserted by another Settling Party; provided, however, that (a) any Settling Party shall have the right to assert claims against another Settling Party with respect to liabilities arising in connection with the Cannons Sites where such claims are based on a contractual right of indemnification; or (b) any Settling Party shall have the right to assert against another Settling Party contribution and/or common law indemnification claims with respect to volumes, up to the amount of such volumes, of materials from which those

Parties are listed jointly in Appendix H, hereto, or listed in Appendix I, hereto. Settling Parties further retain and reserve the right to assert claims against other Settling Parties with respect to any agreements relating to the performance of their obligations under this Consent Decree.

28. COVENANTS BY SETTLING PARTIES. The Settling Parties hereby covenant not to sue the United States or the States for any claims related to or arising from the Response Actions at the Cannons Sites or this Consent Decree, including any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established pursuant to Section 221 of CERCLA, 42 U.S.C. § 9611; provided, however, that nothing in this paragraph shall be construed to bar, limit, or otherwise impair in any way Settling Party's rights to enforce the provisions of this Consent Decree against the Plaintiffs. Nothing in this Consent Decree shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.25(d).

29. ACCESS TO INFORMATION.

A. Provision of Information by Settling Parties. The Settling Parties shall provide EPA and/or the States, upon request, all non-privileged documents and information within

their possession and/or knowledge or that of their contractors or agents relating to activities at the Cannons Sites or to the implementation of this Consent Decree, including sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to remedial activities.

B. Availability of Data to EPA and the States. Settling Parties shall submit to EPA and the Appropriate State the validated results of all sampling and/or tests generated by Settling Parties, by the Contractor, or on Settling Parties' behalf, in the course of implementing this Consent Decree, in its Progress Reports or other Reports as described in the Site RD/RA Plans for the Londonderry or Bridgewater sites or in the Plymouth Site Removal Plan or in this Consent Decree, or within ten (10) business days after such results have been received by the Settling Parties, whichever comes first. With respect to the Plymouth site, the Settling Parties shall make available for inspection and copying by the Plymouth Owners the data described in this subparagraph.

C. Availability of Data to Settling Parties. EPA shall provide to Settling Parties the validated results of all sampling and/or tests generated by or on behalf of EPA concerning the Response Action at the Nashua site within thirty (30) business

days after such results have been received by EPA. Furthermore, EPA shall provide to Settling Parties any non-privileged report, study, or analysis concerning the response action at the Nashua site, or any part or aspect thereof, including without limitation any study or analysis with respect to the effectiveness of the slurry wall and the treatment facility at the Nashua site; such report, study, or analysis shall be provided to Settling Parties within thirty (30) business days after it has been received by EPA.

30. LIABILITY OF RESPONSE ACTION CONTRACTORS. The liability of the Response Action Contractor to the United States shall be as provided in Sections 119(a), 119(b) and 119(e) of CERCLA and any similar provisions pursuant to Massachusetts or New Hampshire statute, including without limitation, M.G.L. c. 21E.

31. CONFIDENTIALITY AND PRIVILEGE CLAIMS. Settling Parties may assert a confidentiality claim, if appropriate, covering all or part of the information requested by this Consent Decree pursuant to 40 C.F.R. 2.203(b). Such an assertion shall be adequately substantiated when the assertion is made. Neither analytical data nor any information specified in Section 104(e)(7)(F) of CERCLA shall be claimed as confidential or privileged by the Settling Parties. Information determined to be confidential by EPA shall be afforded the protection specified by 40 C.F.R. Part

2, Subpart B, and in Section 104(e)(7) of CERCLA. If no such claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA without further notice to Settling Parties.

32. RECORD PRESERVATION. Settling Parties shall preserve, during the pendency of this Consent Decree, and for a period of not less than six (6) years after completing the work required by this Consent Decree, all non-privileged records and documents in their possession or in the possession of their Response Action Contractors which relate in any way to the performance of any Response Action pursuant to this Consent Decree, irrespective of any document retention policy to the contrary. Notwithstanding the generality of the foregoing, at appropriate stages of the Response Action after completion of appropriate phases of work at a site, Settling Parties may request in writing permission to destroy any records or documents relating to said Response Action. This request, which shall describe in detail the records or documents subject to the request, shall be accompanied by a copy of this Consent Decree and shall be sent by certified mail return receipt requested to the following address:

Regional Counsel
U.S. Environmental Protection Agency, Region I
JFK Federal Building, Room 2203
Boston, Massachusetts 02203

A copy of the request shall also be sent to the United States Department of Justice and the Appropriate State. Within sixty (60) days of receipt of a request by Settling Parties to destroy any or all such records or documents, EPA will notify Settling Parties whether such request has been granted or denied. If EPA denies such request, Settling Parties shall make available to EPA such records and documents or copies of any such records and documents and all obligations of Settling Parties pursuant to this Consent Decree with respect to the preservation of those particular records or documents shall cease.

33. NOTICES. Whenever, under the terms of this Consent Decree, written notice is required to be given, or a report or other document is required to be sent by one Party to another, it shall be directed to the individuals specified below, unless those individuals or their successors give notice to the other Parties in writing. Written notice to the individuals listed below shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, the States, and the Settling Parties, respectively.

As to the United States:

Chief, Environmental Enforcement Section
Land and Natural Resources Division
Department of Justice
10th & Pennsylvania Avenue, N.W.
Washington, D.C. 20530

and

Director, Waste Management Division
United States Environmental Protection Agency, Region I
JFK Federal Building
Boston, MA 02203

As to EPA:

The EPA Coordinator

As to the Commonwealth:

The Commonwealth Coordinator

As to New Hampshire:

The New Hampshire Coordinator

As to the Settling Parties:

The Settling Parties' Coordinator

As to the Plymouth Owners:

Michael A. Brown, Esquire
Schmeltzer, Aptaker & Sheppard, P.C.
1800 Massachusetts Avenue, N.W., Suite 500
Washington, D.C. 20036, (202) 828-1000

34. CREDIT FOR PREVIOUS RESPONSE ACTIONS BY SETTLING PARTIES.

Pursuant to Administrative Consent Orders entered into by EPA and certain of the Settling Parties with respect to the Bridgewater and Londonderry sites, EPA is obligated to credit that group of Settling Parties with certain sums. EPA acknowledges that Settling Parties have not previously received credit for Approved Consent Order Costs pursuant to those Administrative Consent Orders. Pursuant to the Administrative Order by Consent, U.S. EPA Docket No. I-88-1020, entered into between EPA and certain Settling Parties in relation to the Bridgewater site, the amount

of oversight costs due to EPA and the Commonwealth from the Settling Parties pursuant to paragraph 7.B shall be further reduced by the amounts, and in accordance with the procedures, specified in the credit provisions set forth in paragraph 41 of that Order. Pursuant to the Administrative Order by Consent, U.S. EPA Docket No. I-87-1100, entered into between EPA and certain Settling Parties in relation to the Londonderry site, the amount of oversight costs due to EPA and New Hampshire from the Settling Parties pursuant to paragraph 7.B shall be further reduced by the amounts, and in accordance with the procedures, specified in the credit provisions set forth in paragraph 39 of that Order.

35. SEPARATE DOCUMENTS. This Consent Decree may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

36. EFFECTIVE AND TERMINATION DATES.

A. Effective Date. The effective date of this Consent Decree shall be deemed to be the date upon which this Consent Decree is entered by the Court.

B. Termination of the Consent Decree. Except as necessary to enforce the operation and maintenance requirements under this Consent Decree, this Consent Decree shall terminate upon certification of the Response Actions at all of the Cannons Sites at which the Settling Parties have undertaken Response Actions, which certification shall be made pursuant to paragraphs 6 and 21 or determined by the Court. Termination of this Consent Decree shall not affect the Covenants Not to Sue, including the provisions relating to reopening of this matter contained in subparagraphs 26.C, 26.D and 26.E, and shall not affect any continuing obligation of the Settling Parties relating to post-remedy monitoring and maintenance at any of the Cannons Sites.

37. RETENTION OF JURISDICTION. This Court shall retain jurisdiction for the purpose of enabling any of the Parties to apply to the Court at any time for such further order, direction, and relief as may be necessary or appropriate for the construction or modification of this Consent Decree, or to effectuate or enforce compliance with its terms, or to resolve disputes in accordance with paragraph 23 hereof.

38. MODIFICATION. Except as otherwise expressly provided in this Consent Decree, no material modification shall be made to this Consent Decree without written notification to and written approval of the Settling Parties, the Plaintiffs, and the Court.

The notification required by this paragraph shall set forth the nature of and reasons for the requested modification. No oral modification of this Consent Decree shall be effective. Modifications that do not materially affect this Consent Decree may be made upon the written consent of all Parties affected by the modifications. Nothing herein shall be deemed to alter the Court's power to supervise or modify this Consent Decree.

39. PUBLIC COMMENT. Final approval and entry of this Consent Decree are subject to the requirements of Section 122(d)(2) of CERCLA, 42 U.S.C. § 9622(d)(2), and 28 C.F.R. § 50.7.

40. SIGNATORIES.

A. Authority of Signatories. Each undersigned representative of the Parties to this Consent Decree certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind such Party to this document.

B. Service of Process. Each Settling Party shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on behalf of that Party with respect to all matters arising under this Consent Decree. By signing this Consent Decree, each Settling

Party acknowledges service of process of the complaints herein and waives all objections to service of process of the complaints. The Settling Parties hereby agree to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure, including service of a summons, and any applicable local rules of this Court.

DATED THIS _____ DAY OF _____, 1988

United States District Judge

THE UNDERSIGNED PARTIES enter into this Consent Decree relating to the Cannons Sites and submit it to the Court that it may be approved and entered.

THE UNITED STATES OF AMERICA

Date:

JUL 28 1988

By:



Roger J. Marzulla
Assistant Attorney General
Land and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Date:

July 28, 1988

By:



David Hird, Attorney
Environmental Enforcement Section
Land and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Date:

July 27, 1988

By:

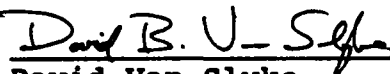


Edward E. Reich, Acting Deputy
Assistant Administrator for
Enforcement and Compliance
Monitoring
U.S. EPA
Washington, D.C. 20460

Date:

July 25, 1988

By:



David Van Slyke
Office of Enforcement and
Compliance Monitoring
U.S. EPA
Washington, D.C. 20460

Date:

July 22, 1988

By:



Michael R. Deland
Regional Administrator
U.S. EPA, Region I
Boston, MA 02203

Date:

July 22, 1988

By:



E. Michael Thomas
Senior Assistant Regional Counsel
U.S. EPA, Region I
Boston, MA 02203

THE STATE OF NEW HAMPSHIRE

Date: July 22, 1988

By: Stephen E. Merrill
Stephen E. Merrill
Attorney General
Concord, New Hampshire 03301

Date: July 22, 1988

By: George Dana Bisbee
George Dana Bisbee
Senior Assistant Attorney General
Concord, New Hampshire 03301

	COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Settling Party	Total Payment Required from Settling Party	Base Settlement Charge	Volumetric Share of Cost Basis	Settlement Premium
=====	=====	=====	=====	=====
EASTHAM FIRE DEPT.	\$5,925.13	\$1,560	\$2,728.20	\$1,636.92
EASTON, MA, TOWN OF	\$3,651.70	\$500	\$1,969.81	\$1,181.88
EATON, CHARLES A. CO.	\$5,736.18	\$750	\$3,116.36	\$1,869.81
ELECTRIC SEWER CLEANING CO., INC.	\$1,280.04	\$500	\$487.52	\$292.51
ELECTRONICS CORP. OF AMERICA	\$35,299.16	\$1,000	\$21,436.97	\$12,862.18
ENGELHARD CORP. AND SALOMON INC.	\$228,060.21	\$1,000	\$141,912.63	\$85,147.57
ESSEX GROUP CO., THE	\$5,457.56	\$1,300	\$2,598.47	\$1,559.08
EXXON CO. GROUP	\$11,444.52	\$500	\$6,840.33	\$4,104.19
FALMOUTH GROUP	\$23,406.17	\$1,300	\$13,816.36	\$8,289.81
FARM CREDIT SERVICE	\$1,287.92	\$500	\$492.45	\$295.47
FEDERAL PRODUCTS CORPORATION	\$1,280.04	\$500	\$487.52	\$292.51
FIRST NATIONAL BANK	\$1,007.46	\$550	\$285.91	\$171.55
FOSTER GRANT CORP.	\$158,812.45	\$1,300	\$98,445.28	\$59,067.17
FOSTER MILLER ASSOCIATES	\$15,291.48	\$1,000	\$8,932.18	\$5,359.30
FRIONOR KITCHENS, INC.	\$704.00	\$600	\$65.00	\$39.00
GAF CORP.	\$187,913.22	\$1,000	\$116,820.76	\$70,092.46
GENERAL MOTORS CORP. GROUP	\$393,344.93	\$1,000	\$245,215.58	\$147,129.34
GENERAL POLYMER, INC.	\$5,739.60	\$250	\$3,431.00	\$2,058.60
GENERAL PRINTING INK CO.	\$487,805.29	\$1,300	\$304,065.80	\$182,439.48
GENERAL TIRE & RUBBER - BOLTA PRODUCTS	\$3,180.43	\$550	\$1,644.02	\$986.41
GLEN OIL	\$1,587.92	\$800	\$492.45	\$295.47
GLOBE #12 BARGE - VESSEL	\$7,412.00	\$550	\$4,288.75	\$2,573.25
GLOBE MANUFACTURING CO.	\$181,562.45	\$1,000	\$112,851.53	\$67,710.92
GOODYEAR TIRE & RUBBER CO.	\$35,299.16	\$1,000	\$21,436.97	\$12,862.18
GRAPHIC ARTS FINISHERS, INC.	\$5,960.32	\$500	\$3,412.70	\$2,047.62
GRAVELY TRACTOR	\$760.01	\$500	\$162.50	\$97.50
GRAY TEXTILE CORP.	\$6,803.40	\$500	\$3,939.63	\$2,363.77
GREAT A & P TEA CO.-STORE#179 ORLEANS,MA	\$593.10	\$250	\$214.43	\$128.66
GREAT AMERICAN CHEMICAL CORP.	\$14,274.00	\$550	\$8,577.50	\$5,146.50
GTE SYLVANIA INC.	\$47,305.91	\$1,000	\$28,941.19	\$17,364.71
GULF OIL CO., EAST PROVIDENCE, R.I.	\$34,680.82	\$800	\$21,175.51	\$12,705.30
HANCOCK PAINT & VARNISH CO.	\$13,269.55	\$1,300	\$7,480.96	\$4,488.58
HARRIS CORP., NASHUA, N.H.	\$15,551.26	\$1,000	\$9,094.53	\$5,456.72
HARRIS GRAPHICS CORP.	\$32,647.38	\$500	\$20,092.11	\$12,055.26
HARTFORD-UNIVERSAL BALL CO.	\$15,596.97	\$1,050	\$9,091.86	\$5,455.11
HARWICH SCHOOL DEPT.	\$3,109.16	\$250	\$1,786.97	\$1,072.18
HATHAWAY OIL CO.	\$1,965.50	\$250	\$1,072.18	\$643.31
HAVERHILL GAS COMPANY	\$158,376.00	\$550	\$98,641.25	\$59,184.75
HERMETITE CORP.	\$559,712.52	\$1,000	\$349,195.32	\$209,517.19
HIGH VOLTAGE ENGINEERING	\$22,871.84	\$1,000	\$13,669.90	\$8,201.94
HILSINGER CORP.	\$578.79	\$500	\$49.24	\$29.54
HOLLINGSWORTH & VOSE	\$21,041.23	\$500	\$12,838.27	\$7,702.96
HORNIG, OSCAR H.	\$736.37	\$500	\$147.73	\$88.64
HULL PUBLIC SCHOOLS	\$2,075.85	\$500	\$984.90	\$590.94
HY-LINE HARBOR TOURS	\$3,409.16	\$550	\$1,786.97	\$1,072.18